

CITY OF MILPITAS
CITY COUNCIL UTILITY RATE SUBCOMMITTEE

MEETING Minutes

Tuesday, June 28, 2005
City Hall, 1st Floor Committee Room

- I. Mayor Esteves called the meeting to order at 5:31 p.m.
- II. Attendees: Mayor Esteves, Councilmember Robert Livengood, Charles Lawson, Richard Pio Roda, Greg Armendariz, Darryl Wong, and Marilyn Nickel.
- III. Announcements - There were no announcements
- IV. The agenda was approved.
- V. The minutes from March 22, 2005 were approved as submitted.
- VI. Citizens Forum
No Citizens present
- VII. Water, Recycled Water, and Sewer Rates Notification, Hearing, and Adoption Requirements
Darryl Wong noted that recent legal decisions affecting customer notifications for rate increases have been issued since the adoption of water and sewer rates in May/June. Richard Pio Roda provided background information on Proposition 218, and discussed the procedural requirements regarding notification. He recommended that Milpitas reintroduce the ordinances, send notices, and conduct a new public hearing. Meyers Nave is advising all their client cities to perform these actions. The City Attorney's office has not approved the utility rate ordinances (recently approved by Council). The following information was provided in response to questions.

Discussion:

- a. The ordinances would contain sufficient text to cover both the recent and prior increases.
- b. The specific court decision affecting the notification is Howard Jarvis versus City of Fresno and the legal decision became final last week. We currently provide information to utility customers who pay the rates. We are required to also provide notices to property owners under Prop 218.
- c. The estimated cost to provide mailers is \$6,000 for postage and \$4,000 for preparation and would be taken from utility fund balances.

- d. We lose about \$125,000 for every month delay of implementation of the new rates. According to the estimated timeline, ordinance introduction and adoption would occur at August 2 and 16 Council meetings with the new rates effective September 17 in lieu of the planned August 1 start date. A protest hearing would be scheduled for September 6. Due to the procedural requirement that the Prop 218 hearing be conducted a minimum of 45 days after the notification is mailed, the hearing cannot occur in August simultaneous with the ordinance introduction public hearing. We are proposing a parallel track for rate adoption with new Prop 218 text and for the Prop 218 protest hearing to minimize implementation delays.
- e. Richard mentioned that Meyers Nave client cities will be performing the notification. Darryl's preliminary discussions with BAWSCA cities shows other cities not proceeding with special Prop 218 notices for water rates at this time.
- f. It is recommended to send the notification to all property owners, even those who are also utility customers (who may have the rate information) due to the specific Prop 218 notification format requirements.
- g. This effort does not change the proposed rate recommendations previously adopted by Council.
- h. Meyers Nave will be reviewing the City Solid Waste rates for Prop 218 requirements. .

Direction to staff:

- Proceed with the Proposition 218 protest notification and public hearings.

VIII. Adjournment

The meeting was adjourned at 5:47 PM.